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ETHEL RUTH ANDERS

No. 26,101 Equity

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In the Circuit Court

DONALD H. ANDERS

for Frederick County, Maryland

FINDINGS OF COURT

COURT (J. CIAPP, Oral): Well, gentlemen, it is certainly clear that the defendant by his pleading has admitted that this property is not susceptible of a division in kind. In addition, of course, he didn't even make the request that it be partitioned in kind but, rather, he asked that a sale be postponed until it could be sold privately. In other words, he didn't even want to partition and now to come in at this stage of the proceeding and try to produce evidence which is only his uncorroborated statement that he thinks it can be divided in kind without loss or injury to the parties === I permitted that testimony even though the pleadings did not make it an issue, but I would disregard that testimony in any event because it is a self-serving opinion of one party to the case as opposed to the opinion of the other party.

I do find as a fact from both the pleadings and the evidence that this property is titled in the name of the parties initially as tenants by the entirety. That it became a tenancy in common by reason of the divorce and that it is not susceptible to division in kind and, accordingly, I will order that the property be sold in lieu of partition. Now, whom do you gentlemen suggest as trustees to make this sale?

MR. PHILLIPS: Counsel ---- Mr. Houlon and myself.

Court: All right, Mr. Phillips, if you will prepare such a decree appointing counsel to act as trustees to sell the property at public sale. Now, what amount of bond do you suggest? It has been testified, of course, that the total value is \$55.000.

Phillips: I would suggest a bond of \$35,000.00 and my practice has been that if the sales price comes in above that, to go get a bond for the difference. You know, to lower the....

Court: Any objection to the \$35,000. bond?